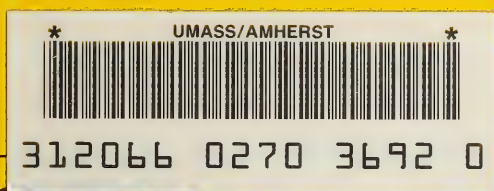


# new & leased car lemon law

program



Consumer Affairs &  
Business Regulation



## about the program.

The Massachusetts Lemon Law protects consumers who have serious defects in their new cars. The law defines a lemon as a new or leased motor vehicle that has a defect which substantially impairs the use, market value, or safety of the vehicle, and which has not been repaired after a reasonable number of attempts. (M.G.L. c. 90, §7N1/2)

If your new or leased vehicle has a substantial defect that still exists or recurs after a reasonable number of repair attempts, then you may have the right to a refund or replacement vehicle. Keep in mind that not all car problems are serious enough to qualify under the Lemon Law.

### **Vehicles Covered By The Lemon Law**

Any new car, motorcycle, van or truck bought in Massachusetts from a new-car dealer for personal or family purposes is covered by the Lemon Law for the "term of protection" of one year or 15,000 miles of use from the date of original delivery, whichever comes first. The law also covers vehicles that are resold during the one year or 15,000-mile term-of-protection, and new vehicles leased after July 1, 1997.

### **Vehicles Not Covered By The Lemon Law:**

- auto-homes;
- vehicles built primarily for off-road use;
- vehicles used primarily for business purposes;
- vehicles with defects caused by owner negligence, accidents, vandalism, or unauthorized repair of the vehicle by a person other than the manufacturer or authorized agent; or
- vehicles leased before July 1, 1997.

## Term of Protection

The term of protection is one year or 15,000 miles of use from the date of original delivery, whichever comes first. This means that the defects you are complaining about and the required repair attempts must occur during this period. However, the manufacturer's final repair attempt can take place after the term of protection.

## Substantial Impairment

The Lemon Law only covers serious defects- those which substantially impair the use, market-value or safety of the vehicle. The law does not list the defects which are considered substantial. You must be able to demonstrate specifically how the use, safety or market value of your vehicle is substantially impaired by the defect. For example, to prove market value impairment, you must show that your vehicle is worth at least 10 percent less than it would be without the defect. Although a defect may be annoying, it is not necessarily substantial.

## repair attempts.

**Reasonable Number of Repair Attempts:** The Lemon Law gives the manufacturer, its agent or authorized dealer a "reasonable number of attempts" to repair the substantial defect. This standard is met if, within the term of protection (1 year or 15,000 miles):

- a repair is attempted 3 or more times for the same substantial defect, and the problem continues or recurs within the term of protection;
- OR
- repair attempts for any substantial defect or combination of defects total 15 or more business days, not necessarily all at one time.

**NOTE:** A business day is any day that the service department of an authorized dealer is open for business.

Be sure to keep complete and accurate records of all contacts with the manufacturer and dealer, and all receipts. You have a right to a dated, itemized bill for any repair work, including warranty repair work, under the Attorney General's Motor Vehicle Regulations (940 CMR 5.00). Examine the bills to be sure the problem you complained about is listed.

The defect must continue or recur after a reasonable number of repair attempts and still substantially impair your vehicle before you can take the next step in the Lemon Law process.

**Final Repair Attempt:** If the substantial defect continues or recurs after the manufacturer or authorized dealer has made a reasonable number of repair attempts to repair the defect, you must give the manufacturer (not the dealer) one final repair opportunity, not to exceed seven business days, to fix the defect. This seven-day period begins when the manufacturer knows or should know that 3 repair attempts or 15 business days out of service limits have been met or exceeded. This is usually the date the manufacturer receives a final repair opportunity letter from you. You may notify the manufacturer of the final opportunity even after the one year or 15,000-mile term of protection ends.

You should send notification of the final opportunity to repair by certified mail, return receipt requested, to the manufacturer's regional office. (See sample.) You may get this address from the Office of Consumer Affairs and Business Regulation. Notifying the manufacturer directly by mail and keeping copies of your letters is the best way to document that the manufacturer was provided a final repair opportunity.

At the end of the 7 business days, you may pick up your vehicle. The manufacturer may choose not to use this final opportunity to attempt repair. If after the seven business days, the substantial defect has not been repaired, or has been repaired and recurs, you have the right to a refund or replacement under the Lemon Law. If the manufacturer does not comply voluntarily, you may request an arbitration hearing.

# Sample Notice Of Final Opportunity To Repair

SAVE A COPY FOR YOUR RECORDS

Your Home Address

Your Evening Telephone Number

Your Daytime Telephone Number

Date

Name of Manufacturer

Manufacturer's Address

Dear Sir or Madam:

I believe that my car is a "lemon" under the Massachusetts Lemon Law (Massachusetts General Laws; c. 90 Sec. 7N1/2). I am hereby making a written demand for relief under the Lemon Law and the Massachusetts Consumer Protection Act (Massachusetts General Laws, c. 93A, Sec.9).

I purchased a (make, model, year of vehicle) on (date) from (name of dealership) in (city, state). The vehicle identification number or VIN number is (vehicle identification number). Since I bought the vehicle, I have had to return it to the dealership a total of (number of times the vehicle was returned to an authorized dealer for repairs) times. My vehicle has been out of service for repairs for a total of (total number of business days the vehicle has been out of service being repaired) business days. My vehicle has been in (name of dealership) for repairs on the following dates for repair of the following defects:

(Date in/out)

(etc.)

(List problems complained of)

(etc.)

I am having the following problems with my vehicle at this time: (list all problems the vehicle currently has).

These remaining defects substantially impair the use, market value or safety of my vehicle. I am hereby allowing you one final repair opportunity. If these repairs are not completed within seven business days of receipt of this letter, I am entitled to a replacement vehicle acceptable to me or a refund calculated in accordance with the Lemon Law.

Failure to comply with the Lemon Law is a violation of Massachusetts General Laws, c. 93A, and you may be subject to double or treble damages as well as attorney's fees and court costs if this matter is taken to court.

I look forward to hearing from you soon.

Sincerely,

Your Name



## Replacement

If your vehicle qualifies as a lemon and the manufacturer offers you a replacement vehicle, it must be one that is acceptable to you. You are free to reject a replacement vehicle and demand a refund. However, you cannot reject a refund and demand a replacement. If you are given a replacement vehicle under the Lemon Law, a new one year or 15,000 mile term of protection starts from the date of delivery of that replacement vehicle.

If the manufacturer issues a replacement vehicle, it must reimburse you for the following costs:

- ▶ transfer of registration fees;
- ▶ sales tax resulting from the replacement; and
- ▶ unreimbursed towing or rental charges resulting from the defect.

If you financed your car through the manufacturer and you accept a replacement vehicle, you do not have to enter into any refinancing agreement which would create any financial obligations beyond those set forth in the original agreement.

## Refund

**New Vehicles:** If you choose to get a refund, you will receive the full contract price of the vehicle including all credits and allowances for any trade-in vehicle, but a reasonable allowance for use will be deducted.

The use allowance depends upon the vehicle's purchase price and mileage. For vehicles other than motorcycles, use this formula:

$$\frac{\text{contract price}}{100,000} \times \text{mileage}$$

For motorcycles the formula is:

$$\frac{\text{contract price}}{25,000} \times \text{mileage}$$

NOTE: You may keep your vehicle until you have been given a refund or an acceptable replacement vehicle. Miles driven during this time will be included when calculating the reasonable allowance for use.

If the manufacturer issues a refund, it must reimburse you for the following costs:

- sales tax;
- registration fees;
- finance charges;
- dealer-added options;
- unreimbursed towing or rental charges resulting from the defect;
- unreimbursed, unused portion of an extended warranty;
- unreimbursed, unused portion of credit insurance;
- defect-related incidental costs.

You also are entitled to a pro-rated excise tax refund from your city or town hall. Under the Lemon Law, you will not be reimbursed for attorney's fees, lost wages, or other consequential damages.

**Leased Vehicles:** If you choose to get a refund, you will receive the total lease payments you made under the agreement. A reasonable allowance for use will be deducted based on the following formula:

$$\frac{\text{total payments made}}{100,000} \times \text{mileage}$$

## asserting your rights.

If the manufacturer will not refund your money or replace the vehicle, you have several options. You may seek mediation, arbitration, or file suite in court.

**Mediation:** This allows both parties to reach a mutually agreeable resolution with the help of a facilitator. Mediation is voluntary, requiring both parties' consent. Consumer Affairs offers a face-to-face mediation program for Lemon Law disputes; you may also apply for mediation through your local consumer group.

**Arbitration:** This is an inexpensive and informal way to resolve your complaint. In arbitration, the consumer and the manufacturer present evidence about the condition of the vehicle to an impartial person or persons. There are two types of arbitration: state-run and manufacturer-sponsored.

1. *State-run Arbitration:* The state-run Lemon Law Arbitration Program hears only Lemon Law cases. To qualify for state-certified arbitration, your vehicle must meet the criteria outlined in this pamphlet. The purpose of the arbitration hearing is to determine whether or not your vehicle qualifies for refund or replacement under the Lemon Law. State-run arbitration is "all or nothing." If the arbitrator determines that your vehicle meets the Lemon Law standards, you will be awarded a full refund (less the use allowance and the amount of any previous settlement from the manufacturer) or replacement. If the arbitrator decides that your vehicle is not a "lemon," there will be no award, although you may have rights to different remedies under other laws. The arbitrator cannot order the manufacturer to make a partial refund, attempt additional repairs, or extend the terms of the express warranty.

Consumer Affairs must receive your request for arbitration within 18 months of the date your vehicle was delivered to



you to require the manufacturer's participation. The request must be made on an official application. You can request state-certified arbitration even if you have already used the manufacturer's own arbitration program. Contact Consumer Affairs for an application, or visit our web site.

A neutral arbitrator will hear both sides of the case and will generally issue a formal decision within 45 days of acceptance of a request for arbitration. Within 21 days of the decision, manufacturers must either issue the award or file an appeal. Late payment of awards or frivolous appeals can result in a judge awarding double damages to the consumer.

*2. Manufacturer-sponsored Arbitration:* You may request manufacturer-sponsored arbitration for Lemon Law defects, as well as other less serious problems. A manufacturer cannot require you to use its arbitration program, but if you choose to use it, the arbitrator or panel does not have to apply the Lemon Law standards. The arbitrator can order partial refunds as well as full ones. Most manufacturers are bound by the decisions of their arbitration programs. For specific information on your manufacturer's arbitration program, contact its zone or regional office.

**Court:** You have the right to proceed to court if you have met the Lemon Law's requirements and the manufacturer refuses to refund your money or replace your vehicle with one that is acceptable to you, or if you are not satisfied with your arbitration decision.

Failure to comply with the Lemon Law is an unfair and deceptive act under the Massachusetts Consumer Protection Act, c. 93A, which may entitle you to double or treble damages, plus court costs and reasonable attorney's fees. If you are considering court action, you should consult an attorney. You or your attorney must begin by sending the manufacturer a 30-Day Demand Letter.

## **sources of help.**

**For information on your rights** under the Lemon Law, to obtain an arbitration application, or case hearing information:

**Office of Consumer Affairs  
and Business Regulation**

(617) 727-7780 or

Toll Free: (888) 283-3757

**To file a formal complaint (NOT for arbitration) against a dealer or manufacturer:**

**The Office of the Attorney General**

(617) 727-8400

**To check a manufacturer's complaint history:**

**Office of Consumer Affairs**

**and Business Regulation** (arbitration history only)

(617) 727-7780 or

Toll Free: (888) 283-3757

**The Office of the Attorney General**

(617) 727-8400

**Better Business Bureau**

(617) 426-9000

(508) 755-2548

(413) 734-3114

**For information on auto safety problems  
and recalls:**

**National Highway Traffic**

**Safety Administration**

(800) 424-9393

## Consumer Guides

Banks Selling Insurance  
Home Improvement  
Landlords' Rights and Responsibilities  
Lemon Aid Law  
Managing Credit and Debt  
New & Leased Car Lemon Law  
Shopping Rights  
Small Claims Court  
Tenants' Rights and Responsibilities  
30-day Demand Letter  
Used Vehicle Warranty Law

## Consumer Fact Sheets

Auto Repair Rights  
Credit Card Secrets  
Making Health Clubs Work Out for You  
Stopping Junk Mail, Calls, and E-mail  
Surviving Financial Identity Theft

## Consumer Hotline

(617) 727-7780  
Toll Free (888) 283-3757


## Online Resource Center

<http://www.consumer.com/consumer>

## e-mail

[ask@consumer.com](mailto:ask@consumer.com)

This publication provides general information about Massachusetts consumer issues and procedures. It is not designed to address all questions in detail and consumers are encouraged to seek further guidance by contacting the agency directly.

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